

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

MICHAEL D. ROSE,  
and EDWARD L. HARMON,  
*on their own behalf and on behalf  
of all others similarly situated,*

Plaintiffs,

v.

CIVIL ACTION NO. 5:22-cv-00405

MICHAEL FRANCIS,  
*individually and as an employee of  
the West Virginia Division of Corrections  
and Rehabilitation,*  
THE RALEIGH COUNTY COMMISSION,  
John/Jane Doe Employees of the Raleigh  
County Commission,  
THE FAYETTE COUNTY COMMISSION,  
John/Jane Doe Employees of the Fayette  
County Commission,  
THE GREENBRIER COUNTY COMMISSION,  
John/Jane Doe Employees of the Greenbrier  
County Commission,  
THE MERCER COUNTY COMMISSION,  
John/Jane Doe Employees of the Mercer  
County Commission,  
THE MONROE COUNTY COMMISSION,  
John/Jane Doe Employees of the Monroe  
County Commission,  
THE SUMMERS COUNTY COMMISSION,  
John/Jane Doe Employees of the Summers  
County Commission,  
THE WYOMING COUNTY COMMISSION,  
John/Jane Doe Employees of the Wyoming  
County Commission,  
PRIMECARE MEDICAL OF WEST VIRGINIA, INC.,  
John/Jane Doe PrimeCare Employees,  
JOHN/JANE DOE CORRECTIONAL OFFICERS,  
BETSY JIVIDEN, *individually as an employee of the  
West Virginia Division of Corrections and Rehabilitation,*  
WEXFORD HEALTH SOURCES, INC.  
John/Jane Doe Wexford Employees,

BRAD DOUGLAS, *individually and in his official capacity as the acting Commissioner of the West Virginia Division of Corrections and Rehabilitation*,  
JEFF S. SANDY, *individually and in his official capacity as the Cabinet Secretary of the West Virginia Division Department of Homeland Security*, and  
WILLIAM K. MARSHALL, III  
*individually and in his official capacity as the Commissioner of the West Virginia Division of Corrections and Rehabilitation*,

Defendants.

### **ORDER**

The pending settlement respecting Defendants Jeff S. Sandy, Betsy Jividen, Brad Douglas, William K. Marshall, III, and Michael Francis (hereinafter “the Settling Defendants”) was discussed at a hearing on November 9, 2023. The Court directed the parties to submit a proposed schedule setting deadlines for case events leading to adjudication of the matter. Accordingly, the Court **ORDERS** as follows:

1. That Plaintiffs and the Settling Defendants shall file a Joint Motion for Preliminary Approval no later than **December 8, 2023**, attaching their settlement agreement and necessary exhibits including declarations;
2. That any comments on the Joint Motion and attached materials shall be filed on or before **December 22, 2023**;
3. That Plaintiffs and the Settling Defendants shall file a Motion for Final Approval, accompanied by a proposed order, no later than **January 12, 2023**; and
4. That the hearing on the Motion for Final Approval is scheduled for **January 26, 2024, at 12:00 PM.**

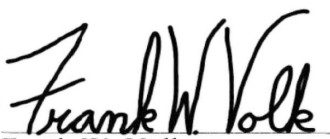
Pending currently are Defendants' Joint Motion to Dismiss Plaintiffs' Second Amended Complaint [Docs. 483, 484]; Plaintiffs' Motion for Class Certification [Docs. 518, 587]; Plaintiffs' Motion to Supplement the Record in Support of Plaintiffs' Motion for Class Certification [Docs. 767–770]; Plaintiffs' Motion for Leave to File a Third Amended Complaint [Docs. 718, 719]; Plaintiffs' Motion for a Finding of Spoliation and for Sanctions Against Defendants Sandy, Jividen, Douglas, and Marshall [Doc. 713] and the Order and Proposed Findings and Recommendation [Doc. 774] filed by the Honorable Omar J. Aboulhosn, United States Magistrate Judge, as well as non-parties Brian Abraham's and Jim C. Justice, II's Objections thereto [Doc. 784]. The Court **DENIES AS MOOT AND WITHOUT PREJUDICE** Defendants' Joint Motion to Dismiss Plaintiffs' Second Amended Complaint [Docs. 483, 484]; Plaintiffs' Motion for Class Certification [Docs. 518, 587]; Plaintiffs' Motion to Supplement the Record in Support of Plaintiffs' Motion for Class Certification [Docs. 767–770]; and Plaintiffs' Motion for Leave to File a Third Amended Complaint [Docs. 718, 719]. To the extent non-settling Defendants are co-movants in the aforementioned documents, the matters remain in controversy.

The Court further **ORDERS** that the Objections to Magistrate Judge's Decision to District Court by non-parties Justice and Abraham [Doc. 784] be **SET ASIDE** pending the Court's approval, if granted, of the forthcoming settlement. To the extent approval is withheld, new deadlines will be set for motion practice and objection periods as necessary.

The Clerk is hereby **DIRECTED** to send a copy of this Order to counsel of record and any unrepresented party.

ENTERED: November 15, 2023



  
Frank W. Volk  
United States District Judge